

COMMITTEE ON LEGISLATIVE RESEARCH  
OVERSIGHT DIVISION

**FISCAL NOTE**

L.R. No.: 4745-01  
Bill No.: HB 2056  
Subject: Crimes and Punishment  
Type: Original  
Date: March 13, 2002

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**FISCAL SUMMARY**

ESTIMATED NET EFFECT ON STATE FUNDS			
FUND AFFECTED	FY 2003	FY 2004	FY 2005
None			
<b>Total Estimated Net Effect on <u>All</u> State Funds</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2003	FY 2004	FY 2005
None			
<b>Total Estimated Net Effect on <u>All</u> Federal Funds</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2003	FY 2004	FY 2005
<b>Local Government</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

Numbers within parentheses: ( ) indicate costs or losses.  
This fiscal note contains 6 pages.

**FISCAL ANALYSIS**

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## ASSUMPTION

Officials from the **Department of Public Safety – Missouri State Highway Patrol** assume the proposed legislation would have no fiscal impact on their agency.

Officials from the **Office of Prosecution Services** assume the proposed legislation would have no fiscal impact on prosecutors.

Officials from the **Office of State Courts Administrator** assume the proposed legislation would have no fiscal impact on the courts.

Officials from the **Office of State Public Defender** assume existing staff could continue to provide representation in cases arising where indigent persons were charged with the attempt to commit any dangerous felony as defined. These cases could become more time consuming due to the fact that anyone convicted would now have to serve at least 85% of their time even for an attempted dangerous felony. Last FY, the State Public Defender System provided representation in the following dangerous felony cases: Arson – 138; Assault – 524; Forcible Rape – 182; Forcible Sodomy – 87; Kidnaping – 59; Murder in the 2<sup>nd</sup> degree – 122; and Robbery in the 1<sup>st</sup> degree – 792. Passage of more than one bill increasing penalties on existing crimes or requiring more time to be served or creating new crimes would require the State Public Defender System to request increased appropriations to cover the cumulative cost of representing indigent persons accused in the now more serious cases or in the new additional cases.

Officials from the **Department of Corrections (DOC)** assume this proposed legislation changes the definition of “dangerous felonies” to include attempts and increases the minimum punishment for forcible rape and sodomy.

§556.061(8) has been modified to include all attempts of felonies listed also as dangerous felonies (DF). There were 6 possible new admissions for rape or sodomy in FY01 which were attempted. The average sentence was 16 years and the average time served for rape and sodomy not classed as DFs is about 70% or 11 years. The net increase in time served is therefore 15%, as dangerous felons are required to serve 85% of their sentence.

6 x 16 x 15% increase accounts for 14 more offenders serving time per each year. The impact would occur at the end of the existing time served or after the 11th year out. This impact will be felt by the DOC after the scope of this fiscal note.

ASSUMPTION (continued)

§§566.030 and 566.060 have been modified to extend the minimum prison term for forcible rape or forcible sodomy or the attempts thereof from the current 5 years to 10 years. There were 12 offenders admitted in FY01 with a sentence under 10 years. The average sentence of those offenders was 8 years. Therefore, the impact of change would be the additional 2 years because the minimum is now 10. The offenders would now be serving 85%.

2 x 12 x 85% increase accounts for 20 more offenders serving time per each year. The impact would occur at the end of the existing time served or after the 7th year out.

§§566.030 and 566.060 have also been modified to extend the minimum prison term for forcible rape or forcible sodomy or the attempts thereof when there are additional circumstances as defined, from the current 10 years to 15 years. There were 4 offenders admitted in FY01 with a sentence under 15 years. The average sentence of those offenders was 8 years. Therefore, the impact of change would be the additional 7 years because the minimum is now 15. The offenders would now be serving 85%.

4 x 7 x 85% increase accounts for 24 more offenders serving time per each year. The impact would occur at the end of the existing time served or after the 7th year out.

In summary, the changes to §§566.030 and 566.060 would result in 44 more offenders serving time in the DOC beginning in the 7th year out. Additional impact will be felt after the 11th year, but is beyond the time-frame covered by this fiscal note.

The following charts detail the estimated fiscal impact for the scope of the fiscal note (FYs 2003, 2004, and 2005), the estimated ten-year fiscal impact, and the assumptions used in determining these costs:

<b>Extended Minimum Prison Term for Forcible Rape or Forcible Sodomy or Attempts Thereof</b>			
	<u>Cost</u>	<u>Days</u>	<u>Total</u>
Operating Expenses	35.78	365	13,060
Construction (C4 or C5 \$55,000)			0
Emergency Housing	0.00	365	0
Operating Inflation (3.0%)			1.030
Emer. Hsng. Inflation (10%)			1.100
Construction Inflation (3.0%)			1.030

ASSUMPTION (continued)

	End FY Population	Average Population	Emer Hsng Expense	Operating Expense	Construction Expense	Total Cost w/ Inflation
FY 2002	0	(current year which will have no costs incurred)				
FY 2003	0	0	0	0	0	0
FY 2004	0	0	0	0	0	0
FY 2005	0	0	0	0	0	0
FY 2006	0	0	0	0	0	0
FY 2007	0	0	0	0	0	0
FY 2008	0	0	0	0	0	0
FY 2009	0	0	0	0	0	0
FY 2010	44	22	0	287,320	0	363,968
FY 2011	44	44	0	574,640	0	749,775
FY 2012	44	44	0	574,640	0	772,268
<b>Total Ten-Year Fiscal Impact:</b>						1,886,011

The DOC estimates the population will increase incrementally over the fiscal year. For cost estimates, a snapshot of the midyear average population was used to determine fiscal impact.

Assumptions used to determine cost and rounded to the nearest whole number include:

- ▶ \$35.78 (FY01 cost) inmate per capita costs with an inflation rate of 3% per each subsequent year.
- ▶ \$3.34 (FY01 cost) average daily probation costs with an inflation rate of 3% per each subsequent year.

If additional persons are sentenced to the custody of the DOC due to the provisions of this legislation, the DOC will incur a corresponding increase in operational cost either through incarceration (FY01 average of \$35.78 per inmate per day, or an annual cost of \$13,060 per inmate) or through supervision provided by the Board of Probation and Parole (FY01 average of \$3.34 per offender per day, or an annual cost of \$1,219 per offender).

ASSUMPTION (continued)

The DOC is unable to determine the number of people who would be convicted under the provisions of this bill to estimate the potential need for additional capital improvements. Estimated construction cost for one new medium to maximum security inmate bed is \$55,000. Utilizing this per-bed cost provides for a conservative estimate by the DOC, as facility start-up costs are not included and entire facilities and/or housing units would have to be constructed to cover the cost of housing new commitments resulting from the cumulative effect of various new legislation, if adopted as statute.

In summary, supervision by the DOC through incarceration or probation would result in additional costs and although the exact fiscal impact is unknown, it is estimated that potential costs will be in excess of the indicated measurable dollar amount per year and is beyond the scope of this fiscal note.

<u>FISCAL IMPACT - State Government</u>	FY 2003 (10 Mo.)	FY 2004	FY 2005
	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

<u>FISCAL IMPACT - Local Government</u>	FY 2003 (10 Mo.)	FY 2004	FY 2005
	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

FISCAL IMPACT - Small Business

No direct fiscal impact to small businesses would be expected as a result of this proposal.

DESCRIPTION

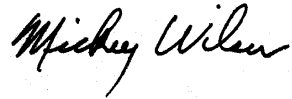
The proposed legislation would add the crimes of attempting first degree arson, first degree assault, forcible rape, forcible sodomy, kidnaping, second degree murder, or first degree robbery to the definition of a dangerous felony. The proposal would also raise the minimum sentence for forcible rape, attempted forcible rape, forcible sodomy, and attempted forcible sodomy from five to 10 years, and from 10 to 15 years when a deadly weapon is used or serious physical injury is inflicted.

DESCRIPTION (continued)

This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space. This legislation would not affect Total State Revenue.

SOURCES OF INFORMATION

Office of State Courts Administrator  
Department of Public Safety  
    – Missouri State Highway Patrol  
Office of Prosecution Services  
Office of State Public Defender  
Department of Corrections



Mickey Wilson, CPA  
Acting Director

March 13, 2002